

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CLAUDINE L. TRIGLIA,

Plaintiff,

v.

PEPSICO, INC., PEPSICO PENSION MANAGEMENT
SERVICES, LTD., and PEPSI-COLA BOTTLING
COMPANY OF NEW YORK, INC.,

Defendants.
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Civil Action No.:
07-CV-6905 (WCC/GAY)

**PLAINTIFF'S REPLY
TO DEFENDANTS
PEPSICO, INC. and PEPSICO
PENSION MANAGEMENT
SERVICES, LTD.'S
COUNTERCLAIMS**

Plaintiff, by its attorney, The Hilpert Law Offices, hereby asserts her Reply to the Counterclaims contained in paragraphs 34 through 47 of defendants' Answer, and states the following:

1. Paragraphs 1 through 27 constituting the Answer to the Complaint, and paragraphs 28 through 33 constituting the Affirmative Defenses, of defendants PEPSICO, INC. and PEPSICO PENSION MANAGEMENT SERVICES, LTD., are not framed in such a manner as to require a reply, but to the extent that a reply is required, plaintiff denies paragraphs 1 through 18 of the Answer, except as to the admission by defendants contained as to paragraph 6 of the Complaint, and, to the extent that they assert claims rather than defenses, denies paragraphs 28 through 33 of the Affirmative Defenses.

2. Denies knowledge or information sufficient to form a belief as the truth of the allegations contained in paragraph 34 of the Counterclaim.

3. Denies the allegations set forth in paragraph 35 of the Counterclaim.

4. Denies knowledge or information sufficient to form a belief as the truth of the allegations contained in paragraph 36 of the Counterclaim.

5. Denies knowledge or information sufficient to form a belief as the truth of the allegations contained in paragraph 37 of the Counterclaim.

6. Denies the allegations set forth in paragraph 38 of the Counterclaim.
7. Denies the allegations set forth in paragraph 39 of the Counterclaim.
8. Denies the allegations set forth in paragraph 40 of the Counterclaim.
9. Denies the allegations set forth in paragraph 41 of the Counterclaim.
10. Denies the allegations set forth in paragraph 42 of the Counterclaim.
11. Denies the allegations set forth in paragraph 43 of the Counterclaim.
12. As to the paragraph 44 of the Counterclaim, repeats and realleges the responses to paragraphs 34 to 43 as if more fully set forth herein.

13. Denies the allegations set forth in paragraph 45 of the Counterclaim.
14. Denies the allegations set forth in paragraph 46 of the Counterclaim.
15. Denies the allegations set forth in paragraph 47 of the Counterclaim.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE TO THE COUNTERCLAIMS

16. Defendants' Counterclaims fail to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE TO THE COUNTERCLAIMS

17. Defendants' Counterclaims fails to properly allege the jurisdiction of this Court.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE TO THE COUNTERCLAIMS

18. Defendants' Counterclaims are barred by the applicable statute of limitations.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE TO THE COUNTERCLAIMS

19. Defendants' Counterclaims are barred by the doctrine of unclean hands.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE TO THE COUNTERCLAIMS

20. Defendants' Counterclaim are barred by the doctrine of estoppel.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE TO THE COUNTERCLAIMS

21. Defendants' Second Counterclaim is frivolous, and intended to harass, cause unnecessary delay, and/or needlessly increase the cost of litigation, and plaintiff is entitled to an award of cost and attorneys fees against defendant pursuant to Rule 11 of the Federal Rules of Civil Procedure therefore.

WHEREFORE, plaintiff respectfully request that this Court grant it the following relief:

- (a) Judgment against defendants dismissing their counterclaims;
- (b) An award to plaintiff of attorney' fees, costs, disbursements and/or sanctions of this action relating the counterclaims of defendants; and
- (c) Such other and further relief as the Court deems just and proper.

Dated: Croton-on-Hudson, New York
October 30, 2007

THE HILPERT LAW OFFICES



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